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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,164	12/07/2001	Takamune Oono	F05-138798M/ARK	9857

7590

07/07/2004

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EXAMINER
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KIM, CHONG HWA

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/005,164

Applicant(s)

OONO ET AL.

Examiner

Chong H. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/7/01 & 10/14/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

The Examiner acknowledges the Applicant's Amendment filed Apr 19, 2004 in response to the Office action made on Jan 23, 2004.

#### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the outwardly swollen rigidity supplementing bracket being aligned with and fixed to the switch bracket as recited in claim 4 and the brittle portion comprising a slit as recited in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted

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by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 4, 10, and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 4 recites the limitation, "wherein said outwardly swollen rigidity supplementing bracket is aligned with and fixed to the switch bracket." It is considered a new matter since such outwardly swollen bracket that is aligned with and fixed to the switch bracket is not disclosed or shown in either the specification or the drawings as originally filed.

Claim 17 recites the limitation, "wherein said brittle portion comprises a slit." It is considered a new matter since such structure is not disclosed or shown in either the specification or the drawings as originally filed.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5, 12-15, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Nawata et al., U.S. Patent 6,112,615.

Nawata et al. shows, in Figs. 1 and 4, a pedal bracket structure comprising;

a pedal bracket 30 fixed at a front end portion to a toe board 16;

a pedal lever 24 rotatably supported in a vicinity of a rear end portion of the pedal bracket via a pedal lever pivot 68;

wherein the pedal bracket comprises a rigidity supplementing portion in the vicinity of the front end portion 34 of the pedal bracket and a brittle portion 32 at a rear side of the rigidity supplementing portion;

wherein the brittle portion is ahead of the pedal lever pivot in a longitudinal direction of the pedal bracket;

a rigidity increasing member 36 between the pedal lever pivot and a vehicle body, and which is located at the rear of the pedal bracket;

wherein the outwardly swollen rigidity supplementing portion comprises a swollen bead;

wherein the outwardly swollen rigidity supplementing portion comprises a curved rib;

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wherein the pedal bracket further comprises a rigidity supplementing plate (the flange portion where the fasteners 46 are attached) attached to the outwardly swollen rigidity supplementing portion;

wherein the brittle portion comprises a thin portion; and

wherein the outwardly swollen rigidity supplementing portion and the brittle portion are contiguous.

6. Claims 1-3, 5, 12-14, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Notake et al., U.S. Patent 6,006,626.

Notake et al. shows, in Fig. 21, a pedal bracket structure comprising;

a pedal bracket 100 fixed at a front end portion to a toe board 16;

a pedal lever 42 rotatably supported in a vicinity of a rear end portion of the pedal bracket via a pedal lever pivot 50;

wherein the pedal bracket comprises a rigidity supplementing portion 108 in the vicinity of the front end portion 110 of the pedal bracket and a brittle portion 148 at a rear side of the rigidity supplementing portion;

wherein the brittle portion is ahead of the pedal lever pivot in a longitudinal direction of the pedal bracket;

a rigidity increasing member 140 between the pedal lever pivot and a vehicle body, and which is located at the rear of the pedal bracket;

wherein the outwardly swollen rigidity supplementing portion comprises a swollen bead;

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wherein the outwardly swollen rigidity supplementing portion comprises a curved rib;  
and

wherein the brittle portion comprises a thin portion.

7. Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Nawata et al., U.S. Patent 6,112,615.

Nawata et al. shows, in Fig. 4, a pedal bracket 30 comprising;

an outwardly swollen rigidity supplementing portion formed toward a front end portion 34 of the pedal bracket; and

a brittle portion 32 formed at a rear side of the outwardly swollen rigidity supplementing portion.

8. Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Notake et al., U.S. Patent 6,006,626.

Notake et al. shows, in Fig. 21, a pedal bracket 100 comprising;

an outwardly swollen rigidity supplementing portion 108 formed toward a front end portion 110 of the pedal bracket; and

a brittle portion 148 formed at a rear side of the outwardly swollen rigidity supplementing portion.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato, JP 9-254821 in view of Notake et al., U.S. Patent 6,006,626.

Kato shows, in Figs. 1-21, a pedal bracket structure comprising;

a pedal bracket 22 fixed at a front end portion to a toe board 20;

a pedal lever 18 rotatably supported in a vicinity of a rear end portion of the pedal bracket via a pedal lever pivot 28;

wherein the pedal bracket comprises a rigidity supplementing portion (on the left side of the bracket) in the vicinity of the front end portion of the pedal bracket and a brittle portion 26-2a at a rear side of the rigidity supplementing portion;

wherein the brittle portion is ahead of the pedal lever pivot in a longitudinal direction of the pedal bracket;

a rigidity increasing member (the upper portion of the bracket) between the pedal lever pivot and a vehicle body, and which is located at the rear of the pedal bracket;

wherein the rigidity increasing member comprising a switch bracket 32 fastened to the pedal bracket together with the pedal lever pivot and a rigidity supplementing bracket 38 disposed between the switch bracket and the vehicle body, wherein the rigidity supplementing bracket is aligned with and fixed to the switch bracket;



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wherein the brittle portion comprises a semi-circular shape hole or a slit formed therein (after collision);

wherein the switch bracket is saddle shaped;

wherein the pedal bracket comprises a rigidity supplementing plate 24 attached to the rigidity supplementing portion; and

wherein the rigidity supplementing portion and the brittle portion are contiguous;

but fails to show the rigidity supplementing portion being outwardly swollen with a swollen bead or a curved rib.

Notake et al. shows, in Fig. 13, a pedal bracket structure comprising an outwardly swollen rigidity supplementing portion 108 having a swollen bead or a curved rib shape in the vicinity of the front end portion of the pedal bracket.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the bracket structure of Kato with the outwardly swollen rigidity supplementing portion as taught by Notake et al. in order to provide increased rigidity so that any further deformation caused by collision may be prevented and thus lowering the repairing cost.

11. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato, JP 9-254821 in view of Nawata et al., U.S. Patent 6,112,615.

Kato shows, in Figs. 1-21, a pedal bracket structure comprising;

a pedal bracket 22 fixed at a front end portion to a toe board 20;

a pedal lever 18 rotatably supported in a vicinity of a rear end portion of the pedal bracket via a pedal lever pivot 28;

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wherein the pedal bracket comprises a rigidity supplementing portion (on the left side of the bracket) in the vicinity of the front end portion of the pedal bracket and a brittle portion 26-2a at a rear side of the rigidity supplementing portion;

wherein the brittle portion is ahead of the pedal lever pivot in a longitudinal direction of the pedal bracket;

a rigidity increasing member (the upper portion of the bracket) between the pedal lever pivot and a vehicle body, and which is located at the rear of the pedal bracket;

wherein the rigidity increasing member comprising a switch bracket 32 fastened to the pedal bracket together with the pedal lever pivot and a rigidity supplementing bracket 38 disposed between the switch bracket and the vehicle body, wherein the rigidity supplementing bracket is aligned with and fixed to the switch bracket;

wherein the brittle portion comprises a semi-circular shape hole or a slit formed therein (after collision);

wherein the switch bracket is saddle shaped;

wherein the pedal bracket comprises a rigidity supplementing plate 24 attached to the rigidity supplementing portion; and

wherein the rigidity supplementing portion and the brittle portion are contiguous;

but fails to show the rigidity supplementing portion being outwardly swollen with a swollen bead or a curved rib.

Nawata et al. shows, in Fig. 4, a pedal bracket structure comprising an outwardly swollen rigidity supplementing portion having a swollen bead or a curved rib shape in the vicinity of the front end portion of the pedal bracket.

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It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the bracket structure of Kato with the outwardly swollen rigidity supplementing portion as taught by Nawata et al. in order to provide increased rigidity so that any further unnecessary deformation caused by collision may be prevented and thus lowering the repairing cost.

12. Claims 8, 9, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nawata et al., U.S. Patent 6,112,615.

Nawata et al. shows, as discussed above in the rejection of claims 1 and 12, the pedal bracket structure comprising the brittle portion having a hole 40, but fails to show the hole being a semi-circular shape.

It would have been obvious to modify the triangular shaped hole of Nawata et al. with a semi-circular shaped hole, since applicant has not disclosed the criticality of the semi-circular shaped hole has on the brittle portion and it appears that the brittle portion would perform equally well with the hole with any reasonable shape.

### ***Response to Arguments***

13. Applicant's arguments filed Apr 19, 2004 have been fully considered but they are not persuasive.

14. In response to applicant's argument that the reason for modifying Kato et al. with Notake et al. is contrary to the reason as set forth in Notake et al., the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art

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cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

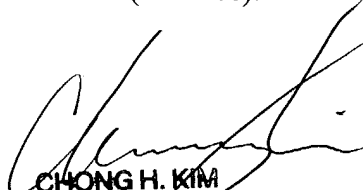
15. In response to applicant's argument that the bead disclosed by Notake et al. could not be positioned at the portion of the bracket disclosed by Kato et al., the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Tuesday - Friday; 8:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

chk  
June 30, 2004

  
CHONG H. KIM  
PRIMARY EXAMINER